

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:19-cv-00965-CKK**

CALIFORNIA AIR RESOURCES BOARD v. UNITED
STATES ENVIRONMENTAL PROTECTION AGENCY et al
Assigned to: Judge Colleen Kollar-Kotelly
Cause: 05:552 Freedom of Information Act

Date Filed: 04/05/2019
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

**CALIFORNIA AIR RESOURCES
BOARD**

represented by **Margaret Elaine Meckenstock**
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V.

Defendant

**UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY**

represented by **April Denise Seabrook**
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Defendant

**NATIONAL HIGHWAY TRAFFIC
SAFETY ADMINISTRATION**

represented by **April Denise Seabrook**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/05/2019	<u>1</u>	COMPLAINT against NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Filing fee \$ 400 receipt number 0090-6043290) filed by CALIFORNIA AIR RESOURCES BOARD. (Attachments: # <u>1</u> Civil Cover Sheet Civil Cover Sheet,

		# <u>2</u> Summons Summons to U.S. Environmental Protection Agency, # <u>3</u> Summons Summons to National Highway Traffic Safety Administration, # <u>4</u> Summons Summons to U.S. Attorney General, # <u>5</u> Summons Summons to U.S. Attorney for the District of Columbia)(Hoffman, Ryan) (Entered: 04/05/2019)
04/08/2019		Case Assigned to Judge Colleen Kollar-Kotelly. (zef,) (Entered: 04/08/2019)
04/08/2019	<u>2</u>	SUMMONS (4) Issued Electronically as to NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, U.S. Attorney and U.S. Attorney General. (Attachments: # <u>1</u> Notice and Consent)(zef,) (Entered: 04/08/2019)
04/12/2019	<u>3</u>	ORDER ESTABLISHING PROCEDURES FOR CASES ASSIGNED TO JUDGE COLLEEN KOLLAR-KOTELLY. Signed by Judge Colleen Kollar-Kotelly on 4/12/19. (DM) (Entered: 04/12/2019)
04/17/2019	<u>4</u>	NOTICE of Appearance by Margaret Elaine Meckenstock on behalf of CALIFORNIA AIR RESOURCES BOARD (Meckenstock, Margaret) (Entered: 04/17/2019)
05/14/2019	<u>5</u>	Unopposed MOTION for Extension of Time to File Answer re <u>1</u> Complaint,, by NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Seabrook, April) (Entered: 05/14/2019)
05/14/2019		MINUTE ORDER. The Court is in receipt of Defendants' <u>5</u> Unopposed Motion for Extension of Time to File Answer, and Memorandum in Support Thereof. Currently, Defendants' Answer is due May 17, 2019. Defense counsel requests an extension of thirty days due to the complex nature of the subject matter of the FOIA request, the need to confer with agency-Defendants, and other litigation commitments. Defendants' Motion is GRANTED. Defendants are ORDERED to submit their Answer by JUNE 18, 2019. Signed by Judge Colleen Kollar-Kotelly on 5/14/2019. (lcckk3) (Entered: 05/14/2019)
05/14/2019		Set/Reset Deadlines: Answer due by 6/18/2019. (dot) (Entered: 05/20/2019)
06/18/2019	<u>6</u>	ANSWER to Complaint by NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.(Seabrook, April) (Entered: 06/18/2019)
06/19/2019	<u>7</u>	SCHEDULING ORDER. Signed by Judge Colleen Kollar-Kotelly on 6/19/2019. (lcckk3) (Entered: 06/19/2019)
06/19/2019		Set/Reset Deadlines: Meet & Confer Statement due by 7/16/2019. (dot) (Entered: 06/24/2019)
07/16/2019	<u>8</u>	Joint STATUS REPORT by CALIFORNIA AIR RESOURCES BOARD. (Meckenstock, Margaret) (Entered: 07/16/2019)
07/29/2019		MINUTE ORDER. The Court is in receipt of the parties' <u>8</u> Joint Status Report. Defendant EPA reports that it anticipates issuing its final response to part 12 of Plaintiff's FOIA request no later than August 7, 2019 and its final response to parts 1-11 no later than August 16, 2019. Defendant NHTSA has already issued its final response. The parties disagree on the next steps moving forward. Plaintiff requests that the Court grant partial summary judgment briefing on NHTSA's assertion of Exemption 5 with respect to records responsive to part 8 of Plaintiff's FOIA request. Plaintiff states that immediate action is required due to an impending deadline for submitting comments to a regulatory proposal issued by EPA and NHTSA. The Court will not allow partial summary judgment briefing at this time. Conducting summary judgment briefing on NHTSA's claimed exemption before EPA has completed its response is not an efficient use of the parties' or the Court's resources. Plaintiff's request for more immediate access to NHTSA's withheld information does not outweigh the inefficiency that bifurcating Plaintiff's FOIA request and conducting two rounds of summary judgment would cause. Instead, the Court ORDERS the parties to file a further Joint Status Report on AUGUST 16, 2019, advising the Court on the status of the matter and recommending steps for moving forward. Signed by Judge Colleen Kollar-Kotelly on 7-29-2019. (lcckk3) (Entered: 07/29/2019)

07/29/2019		Set/Reset Deadlines: Joint Status Report due by 8/16/2019, advising the Court on the status of the matter and recommending steps for moving forward. (dot) (Entered: 07/30/2019)
08/16/2019	<u>9</u>	Joint STATUS REPORT by CALIFORNIA AIR RESOURCES BOARD. (Hoffman, Ryan) (Entered: 08/16/2019)
08/19/2019		MINUTE ORDER. The Court is in receipt of the parties' <u>9</u> Joint Status Report. The parties report that Defendants have finished responding to Plaintiff's FOIA requests and that summary judgment briefing is required to resolve the remaining issues. Plaintiff's Motion for Summary Judgment is due OCTOBER 4, 2019; Defendants' Opposition and Cross-Motion is due NOVEMBER 1, 2019; Plaintiff's Opposition and Reply is due NOVEMBER 29, 2019; Defendants' Reply is due DECEMBER 27, 2019. Signed by Judge Colleen Kollar-Kotelly on 8-19-2019. (lcckk3) (Entered: 08/19/2019)
08/19/2019		Set/Reset Deadlines: Plaintiff's Motion for Summary Judgment is due 10/4/2019; Defendants' Opposition and Cross-Motion is due 11/1/2019; Plaintiff's Opposition and Reply is due 11/29/2019; Defendants' Reply is due 12/27/2019. (kt) (Entered: 08/19/2019)
10/07/2019	<u>10</u>	MOTION for Summary Judgment by CALIFORNIA AIR RESOURCES BOARD (Attachments: # <u>1</u> Declaration Meckenstock Exhs 1-10, # <u>2</u> Declaration Hart Exhs 11-16, # <u>3</u> Declaration McCarthy Exh 17, # <u>4</u> Text of Proposed Order)(Meckenstock, Margaret) (Entered: 10/07/2019)
10/07/2019	<u>11</u>	ENTERED IN ERROR.....NOTICE <i>regarding date of MSJ filing</i> by CALIFORNIA AIR RESOURCES BOARD (Attachments: # <u>1</u> Exhibit)(Meckenstock, Margaret) Modified on 10/9/2019 (znmw). (Entered: 10/07/2019)
10/08/2019		NOTICE OF ERROR re <u>11</u> Notice (Other); emailed to Elaine.Meckenstock@doj.ca.gov, cc'd 4 associated attorneys -- The PDF file you docketed contained errors: 1. Please refile document, 2. See LcvR 5.1(a) and 5.1(d) (ztd,) (Entered: 10/08/2019)
10/08/2019	<u>12</u>	NOTICE <i>re timing of MSJ filing</i> by CALIFORNIA AIR RESOURCES BOARD (Meckenstock, Margaret) (Entered: 10/08/2019)
10/29/2019	<u>13</u>	Unopposed MOTION to Amend/Correct Set/Reset Deadlines, by NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Seabrook, April) (Entered: 10/29/2019)
10/29/2019		MINUTE ORDER. The Court is in receipt of the Defendants' <u>13</u> Unopposed Motion to Amend Briefing Schedule, and Memorandum in Support Thereof. Defendants' Opposition and Cross-Motion for Summary Judgment is currently due November 1, 2019. Defendants request an extension because the parties are still negotiating the scope of Plaintiff's challenges to the EPA's FOIA response. An extension would allow the EPA to tailor its briefing and declaration to the disputed issues. Defendants' Motion is GRANTED. Defendants' Opposition and Cross-Motion is due DECEMBER 2, 2019; Plaintiff's Opposition and Reply is due JANUARY 2, 2020; Defendants' Reply is due FEBRUARY 2, 2020. Signed by Judge Colleen Kollar-Kotelly on 10-29-2019. (lcckk3) (Entered: 10/29/2019)
10/29/2019		Set/Reset Deadlines: Defendants' Cross Motion due by 12/2/2019. Response to Cross Motion due by 1/2/2020. Reply to Cross Motion due by 2/2/2020. Defendants' Response to Motion for Summary Judgment due by 12/2/2019. Reply to Motion for Summary Judgment due by 1/2/2020. (dot) (Entered: 10/30/2019)
11/05/2019	<u>14</u>	Unopposed MOTION to Amend/Correct <i>Set/Reset Deadlines</i> by CALIFORNIA AIR RESOURCES BOARD (Hoffman, Ryan) (Entered: 11/05/2019)
11/07/2019		MINUTE ORDER. The Court is in receipt of the Plaintiff's <u>14</u> Unopposed Motion to Amend Briefing Schedule, and Memorandum in Support Thereof. Currently, Plaintiff's Opposition and Reply is due January 2, 2020 and Defendants' Reply is due February 2, 2020. Counsel reports that a deadline of January 2, 2020 is not workable due to long-standing holiday travel plans. The Court notes that the deadline of January 2, 2020 was previously proposed by the parties. See ECF No. 13. The Court GRANTS

		Plaintiff's Motion. Plaintiff's Opposition and Reply is due JANUARY 22, 2020; Defendants' Reply is due FEBRUARY 24, 2020. No further extensions will be granted. Signed by Judge Colleen Kollar-Kotelly on 11-6-2019. (lcckk3) (Entered: 11/07/2019)
11/07/2019		Set/Reset Deadlines: Plaintiff's Response to Cross Motion due by 1/22/2020. Defendants' Reply to Cross Motion due by 2/24/2020. Plaintiff's Reply to <u>10</u> Motion for Summary Judgment due by 1/22/2020. (dot) (Entered: 11/12/2019)
11/21/2019	<u>15</u>	NOTICE , <i>Joint, of Agreement to Partially Defer Summary Judgment Briefing</i> by CALIFORNIA AIR RESOURCES BOARD (Hoffman, Ryan) (Entered: 11/21/2019)
12/02/2019	<u>16</u>	Unopposed MOTION to Amend/Correct Set/Reset Deadlines by NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Seabrook, April) (Entered: 12/02/2019)
12/03/2019		MINUTE ORDER. The Court is in receipt of the Defendants' <u>16</u> Unopposed Motion to Amend Briefing Schedule, and Memorandum in Support Thereof. Defendants' Opposition and Cross-Motion was due December 2, 2019. This is Defendants' second request for an extension. Defendants request an extension due to the unexpected illness of Defense counsel as well as an unexpected death in Defense counsel's family. Defendants' Motion is GRANTED nunc pro tunc. Defendants' Opposition and Cross-Motion is due DECEMBER 17, 2019; Plaintiff's Opposition and Reply is due FEBRUARY 6, 2020; and Defendants' reply is due MARCH 9, 2020. The Court recognizes that in its November 7, 2019 Minute Order it stated that no further extensions would be granted. However, the Court recognizes that the illness and death necessitating this extension were outside counsel's control. This briefing schedule is the final schedule. Signed by Judge Colleen Kollar-Kotelly on 12-3-2019. (lcckk3) (Entered: 12/03/2019)
12/03/2019		Set/Reset Deadlines: Defendants' Cross Motion for Summary Judgment due by 12/17/2019. Response to Cross Motion due by 2/6/2020. Reply to Cross Motion due by 3/9/2020. Defendants' Response to Motion for Summary Judgment due by 12/17/2019. Reply to Motion for Summary Judgment due by 2/6/2020. (dot) (Entered: 12/03/2019)